

<b>Notice of Allowability</b>	Application No.	Applicant(s)	
	10/719,341	LYSAGHT, PATRICK	
	Examiner	Art Unit	
	Phallaka Kik	2825	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to application and IDS filed on 11/21/2003, interviews conducted on 12/22/2006 and 1/3/2007.
2. ☒ The allowed claim(s) is/are 19-35, wherein claims 1-18 have been cancelled and claims 19-35 have been renumbered as 1-17 respectively.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| <ol style="list-style-type: none"> <li>1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br/>Paper No./Mail Date <u>11/21/2003</u></li> <li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5. <input type="checkbox"/> Notice of Informal Patent Application</li> <li>6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date <u>20061223</u>.</li> <li>7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment</li> <li>8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9. <input type="checkbox"/> Other _____</li> </ol> |
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### **DETAILED ACTION**

1. This Office Action responds to the application and IDS filed on 11/21/2003, interviews conducted on 12/22/2006 and 11/3/2007. Claims 1-35 are pending, wherein claims 1-18 are withdrawn from consideration as being directed to non-elected invention with traverse. Claims 19-35 have been examined and are allowed, wherein claims 1-18 are subjected to the following Examiner's Amendment.

### ***Election/Restrictions***

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-18, drawn to programmable device, classified in class 326, subclass 40.
- II. Claims 19-35, drawn to method of operating a programmable device, classified in class 716, subclass 16.

3. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case, at least the programmable device of invention I can be practiced with a materially different process or method of operating the programmable other than that of invention II.

4. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required

because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

5. During a telephone conversation with Justin Liu (Reg. No. 51,959) on 12/22/2006 a provisional election was made with traverse to prosecute the invention of group II, claims 19-35. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-18 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

#### **EXAMINER'S AMENDMENT**

6. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Justin Liu (Reg. No. 51,959) on 1/3/2007.

The application has been amended as follows:

#### **In the claims:**

As per **claims 1-18**, the claims have been cancelled.

#### ***Allowable Subject Matter***

7. **Claims 19-35** are allowed.

8. The following is an examiner's statement of reasons for allowance:

As per **claims 19-28**, the independent claim 19, from which the respective claims depend, recites the method of operating the programmable device having a plurality of

configuration memory cells and a processing core, comprising the inventive steps of using the defined don't care set of configuration memory cells as read/write memory for the processing core, as claimed, which the prior arts made of record failed to teach or suggest. In particular, the prior arts made of record teach various methods of operating/configuring the programmable devices having memory cells and processing core, including using unused memory or logic for other purposes (see especially **Killian et al.**, US Patent Application Publication No. 2003/0208723, especially paragraphs [0031][0053], [0288]; **Killian et al.**, US Patent Application Publication No. 2006/0259878, especially paragraphs [0032]-[0054], [0256]; **Morfey et al.**, US Patent Application Publication No. 2005/0108662, especially paragraphs [0100]-[0103], [0137]; **Lawman**, US Patent No. 5,928,338, especially col. 2, line 24 to col. 3, line 20; **MARSHALL et al.**, European Patent No. EP-858167, especially abstract). However, the unused memory or logic are not based on the don't care set of configuration memory cells being defined as claimed. Accordingly, the claimed invention is novel and un-obvious over the prior arts made of record.

As per **claims 29-35**, the independent claim 29, from which the respective claims depend, recites the method of operating the programmable device having a plurality of configuration memory cells and a processing core, comprising the inventive steps of storing predetermined user data in a subset of the defined don't care set of configuration memory cells, as claimed, which the prior arts made of record failed to teach or suggest. As discussed in the reasons for allowance of claims 19-28 above, the prior arts made of record teach various methods of operating/configuring the programmable devices

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having memory cells and processing core, including using unused memory or logic for other purposes; however, the unused memory or logic are not based on the don't care set of configuration memory cells being defined as claimed. Accordingly, the claimed invention is novel and un-obvious over the prior arts made of record.

***Conclusion***

9. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phallaka Kik whose telephone number is 571-272-1895. The examiner can normally be reached on Monday-Friday, 8AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Chiang can be reached on 571-272-7483. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**Any response to this action should be mailed to:**

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

**or faxed to:**

571-273-8300



Phallaka Kik  
Primary Examiner  
January 3, 2007